

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA**

**JANE DOE, et al**

\*      **NO. 6:21-cv-00430-DCJ-CBW**

**vs.**

\*      **JUDGE DAVID C. JOSEPH**

**EDOUARD d'ESPALUNGUE  
d'ARROS**

\*      **MAGISTRATE JUDGE CAROL  
B. WHITEHURST**

**MOTION FOR RECONSIDERATION, TO SUPPLEMENT THE RECORD, AND  
FOR ISSUANCE OF AN ORDER NUNC PRO TUNC DECLARING SERVICE VALID**

In a Memorandum Order entered June 27, 2023, the Court vacated the entry of default and Plaintiffs' Motion for Evidentiary Hearing on a finding that Plaintiffs failed to properly effect service on Defendant under the Hague Convention. The Court granted Plaintiffs 90 days "to effect proper service or otherwise demonstrate continued reasonable diligence in attempting to serve the Defendant."

Plaintiffs respectfully move to supplement the record to show that a process server served a copy of the Complaint and Summons on Defendant's attorney, J. Michael Small, on February 23, 2021, one day after the Complaint was filed. Mr. Small acknowledged receipt of the documents in written correspondence and referred to this civil suit in a pleading filed in the criminal record of proceedings in the 9<sup>th</sup> JDC. Nonetheless, because Mr. Small stated he was not authorized to accept service of a civil suit, Plaintiffs undertook the costly and time-consuming effort to obtain service under the Hague Convention, which failed when defendant successfully evaded service.

Additional evidence shows that Defendant also received notice of these proceedings via multiple mailings, emails, publication of numerous media articles citing this civil lawsuit; and by

the repeated contacts of French police attempting to arrange meetings in order to deliver service documents. Defendant has made no effort to enter an appearance or offer defenses or objections.

Service of process on a foreign individual need not be pursuant to the Hague Convention or any other international agreement enumerated in Rule 4(f)(1). Service under Rule 4(f)(3) stands on equal footing and authorizes the Court to order service “by other means not prohibited by international agreement, as the court orders.” Here, all due process requirements of alternative service of process under Rule 4(f)(3) were met prior to entry of the default and the evidentiary hearing. Due process requires “notice reasonably calculated … to apprise interested parties of the pendency of the action.” *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S.Ct. 652, 94 L. Ed. 865 (1950). Receipt of formal service of process is not required where the facts and circumstances show that notice of legal proceedings satisfies due process. *United States v. One Urban Lot*, 885 F.2d 994, 998–99 (1st Cir.1989).

Considering the supplemental evidence attached to this motion and controlling case law, plaintiffs respectfully request that the Court issue an Order *nunc pro tunc* declaring valid alternative service on Edouard d'Espalungue d'Arros, reinstating the entry of default and the evidentiary hearing, and for any further relief that the Court deems just and proper.

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of this pleading was sent to defendant this date via to four email addresses used in the past by Edouard d'Espalungue d'Arros ([ed.eda@gmx.com](mailto:ed.eda@gmx.com); [edouard.dsp@outlook.com](mailto:edouard.dsp@outlook.com); [d98891570@gmail.com](mailto:d98891570@gmail.com); [edouarddespalungue@gmail.com](mailto:edouarddespalungue@gmail.com)) and to Pierre Hourcade, an attorney who has previously represented Mr. d'Espalungue at [contact@frenchattorney.com](mailto:contact@frenchattorney.com).

/s/ Elwood C. Stevens, Jr.